

Act No. 127  
Public Acts of 2019  
Approved by the Governor  
November 21, 2019  
Filed with the Secretary of State  
November 21, 2019  
EFFECTIVE DATE: November 21, 2019

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2019**

Introduced by Reps. Griffin, Hauck, Warren, Hoitenga, Crawford, Leutheuser, Hall, Webber, Wozniak, Kahle, Chirkun, Hertel, Bellino, Cambensy, Brixie, Elder, Sabo, Coleman, Byrd, Garza, Lasinski, Clemente, Shannon, Hood, Marino, Peterson, Witwer, Cherry, Liberati, Greig, Sheppard, Frederick, Sneller, Wentworth, Filler, Jones, Neeley, Eisen and VanSingel

## **ENROLLED HOUSE BILL No. 4961**

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," (MCL 436.1101 to 436.2303) by adding section 608.

*The People of the State of Michigan enact:*

Sec. 608. (1) The purpose of this section is to exercise this state's authority under section 2 of Amendment XXI of the Constitution of the United States to ensure an orderly market for the distribution and sale of alcoholic beverages.

(2) It is the intent of this state to provide access to this state's alcoholic beverage market to all licensed manufacturers of alcoholic beverages by ensuring the independence of wholesalers to distribute the brands of

beer, wine, mixed spirit drinks, and mixed wine drinks of multiple manufacturers free from the interference or control of any 1 manufacturer.

(3) A manufacturer shall not do any of the following:

(a) Subject to subsection (5), require a wholesaler to provide financial records directly or indirectly related to any of the following:

Ⓐ The wholesaler's distribution of the brands manufactured or sold to the wholesaler by another manufacturer.

Ⓑ The compensation of a wholesaler's employees.

Ⓒ The wholesaler's business operations not directly related to the distribution of the brands manufactured or sold to the wholesaler by the manufacturer.

(b) Request a wholesaler to submit any of the wholesaler's financial records as a requirement for renewing or retaining an agreement.

(c) Require a wholesaler to spend a set amount of resources marketing or promoting the brands manufactured or sold by the manufacturer to the wholesaler that is based on the sales revenue derived by the wholesaler's distribution of the brands manufactured or sold to the wholesaler by the manufacturer.

(d) Intentionally ship beer, wine, mixed spirit drink, or mixed wine drink to a wholesaler that exceeds the order placed by the wholesaler or the forecast submitted by the wholesaler. For purposes of this subdivision, a manufacturer is considered to have intentionally taken an action described in this subdivision if the manufacturer has invoiced or initiated an electronic funds transfer for the amount shipped in excess.

(e) Prohibit a wholesaler from distributing the brands the manufacturer manufactured or sold to the wholesaler in licensed vehicles that have markings or logos of brands manufactured or sold to the wholesaler by other manufacturers.

(f) Prohibit a wholesaler from distributing the brands manufactured or sold to the wholesaler by another manufacturer on a licensed vehicle that has the marking or logos of brands manufactured or sold to the wholesaler by the manufacturer.

(g) Require a distributor to pay for the development, installation, or use of reporting software owned or mandated by the manufacturer. This subdivision does not prohibit a manufacturer from requiring a distributor to maintain electronic information systems that are compatible with systems and standards adopted by the manufacturer.

(h) Require a wholesaler to pay a fee or penalty, of any description, for noncompliance with a manufacturer requirement. This subdivision does not prohibit a wholesaler from paying damages to a supplier as provided in section 305 or 403.

(i) Set or attempt to set the rates of compensation for wholesaler employees, including incentives.

(j) Prohibit a wholesaler from utilizing any wholesaler-owned, leased, or controlled property or equipment to market, promote, deliver, or distribute the brands manufactured or sold by another manufacturer to the wholesaler.

(4) A manufacturer that violates this section may be ordered to pay a civil fine as follows:

(a) For a first violation, a civil fine of not more than \$1,000.00.

(b) For a second violation, a civil fine of not more than \$2,000.00.

(c) For a third or subsequent violation, a civil fine of not more than \$5,000.00.

(5) A manufacturer may request and a wholesaler may provide financial records if any of the following circumstances apply:

(a) The wholesaler is attempting to purchase the manufacturer's brands from another wholesaler.

(b) The wholesaler and manufacturer are entering into an initial distribution agreement.

(c) The financial records are solely related to the brands sold by the manufacturer to the wholesaler.

(6) As used in this section, "manufacturer" includes a brewer, micro brewer, wine maker, small wine maker, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink.

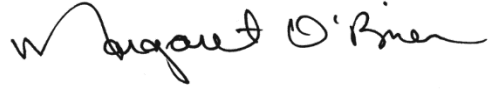
Enacting section 1. This amendatory act does not take effect unless House Bill No. 4960 of the 100th Legislature is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved \_\_\_\_\_

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Governor

**Compiler's note:** House Bill No. 4960, referred to in enacting section 1, was filed with the Secretary of State November 21, 2019, and became 2019 PA 126, Imd. Eff. Nov. 21, 2019.